

Repayment of House-rate and Market Loans of 1867-68.

104. (1) Until such time as the corporation repay the house-rate loan and the two market loans raised in 1867 and 1868 under the provisions of sections 253 to 258 of the ¹Bombay Municipal Act, 1865, it shall be incumbent on the corporation to maintain out of the taxes, on the security of which the said loans were raised, the sinking fund prescribed by section 257 of the said Act :

Sinking fund for house-rate and market loans to be maintained.

(2) Provided that in the event of the corporation's discharging any portion of the said loans at any time previous to the time at which they are repayable in full, it shall be competent to the corporation to reduce *pro tanto* the amount of the said sinking fund.

Publication of Annual Account of Balances due on Loans.

105. (1) The Commissioner shall, in the month of January in each year, publish in the Bombay Government Gazette an account showing the balances due by the corporation on the last preceding thirty-first day of December to the Secretary of State for India in Council and to municipal security holders, respectively, on account of each debt or loan, if any, at the time still repayable by the corporation.

Account of balances due on loans to be published by the Commissioner yearly.

(2) The Commissioner shall also cause the said account to be printed and a printed copy thereof to be forwarded to the usual or last known local place of abode of each councillor.

CHAPTER VI.

BORROWING POWERS.

106. The corporation may from time to time borrow or re-borrow and take up at interest from the Secretary of State for India in Council or, with the sanction of the ²[Governor in Council] from any other person, any sum necessary for the purpose of defraying any cost, charges or expenses incurred or to be incurred by them in the execution of this Act, or for the purpose of discharging any loan contracted under this Act or any other loan or debt for repayment of which they are liable :

Power to borrow from Government or other persons.

¹ This Act was repealed by Bom. Act 3 of 1872.

² These words were substituted for the words " Governor General of India in Council " by s. 2 and Schedule I of the Devolution Act, 1920 (38 of 1920).

¹[Provided that no loan exceeding in amount twenty-five lakhs of rupees shall be contracted by the corporation unless the terms, including the date of flotation, of such loan have been approved by the Governor General of India in Council.]

Provisions applicable to any new loan contracted with Government.

107. If any new loan shall be contracted by the corporation under this Act with the Secretary of State for India in Council, the same shall be subject, as regards re-payment and security and in every other respect, to the same provisions as are hereinbefore contained in respect of the consolidated loan save only that the rate of interest, the period of repayment and the number and amount of the instalments shall, in the case of any such new loan, be fixed, under the orders of the Governor General of India in Council, by the Governor in Council.

Mortgage of taxes or immoveable property.

108. (1) The corporation may borrow or re-borrow any such sum as aforesaid from any person other than the Secretary of State for India in Council, on the security of any immoveable property belonging to them or proposed to be acquired by them under this Act or of all the taxes or of any tax which they are authorised to levy for the purposes of this Act or of all or any of those securities.

(2) And for the purpose of securing the repayment of any sum so borrowed, with interest thereon, they may mortgage to the person by or on behalf of whom such sum is advanced any such immoveable property or tax.

Provisions as to exercise of borrowing powers.

109. The exercise of the powers of borrowing conferred by this Act shall be subject to the following provisions, namely—

- (a) money shall not be borrowed for the execution of any work other than a permanent work including under this expression any work of which the cost ought, in the opinion of Government, to be spread over a term of years;
- (b) the sum borrowed shall not at any time exceed, with the balances of all the outstanding loans and debts due by the corporation, in the whole, double the rateable value of the premises in the city assessable as hereinafter provided, to property taxes;
- (c) the money may be borrowed for such time, not exceeding sixty years, as the corporation, with the sanction of ²[the Governor in Council], determine in each case;

¹ This proviso was added by s. 2 and Schedule I of the Devolution Act, 1920 (33 of 1920).

² These words were substituted for the words "the Governor General of India in Council" by *ibid.*

- (d) the corporation shall either pay off the money so borrowed by equal annual instalments of principal, or of principal and interest, or they shall in every year set apart as a sinking-fund and accumulate in the way of compound interest, by investing the same in the purchase of public securities, such sum as will, with accumulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the moneys so borrowed within the period sanctioned;
- (e) the corporation may at any time apply the whole or any part of a sinking-fund set apart under this section in or towards the discharge of the moneys for the repayment of which the fund has been established: Provided that they pay into the fund each time that interest would have been received by the corporation in respect of the sinking-fund or the part of the sinking-fund so applied, and accumulate, until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been so received;
- (f) the investment every year of any sum set apart as portion of the principal of a sinking-fund shall be made within fifteen days after the day on which the second half-yearly payment of interest is due by the corporation in respect of the loan for repayment of which such sinking-fund is established; and the re-investment of any sum received by the corporation on account of interest on moneys appertaining to a sinking-fund already invested, and the investment of any sum payable into the fund under clause (e) as the equivalent of interest which the corporation would have received, if the sinking-fund or a part thereof had not been applied in any manner authorised by the said clause, shall be made within one month from the day on which such interest is received or from the day on which such interest would have been received, as the case may be;
- (g) where money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed shall not, unless with the sanction of Government, extend beyond the unexpired portion of the period for which the original loan was sanctioned and shall in no case be extended beyond the period of sixty years from the date of the original loan.

110. (1) Every mortgage authorized to be made under this chapter shall be by debenture in the form contained in Schedule C, or in such other Form of security.

form as the corporation, with the consent of Government, shall from time to time determine.

(2) Every debenture issued under this Act shall be transferable by endorsement and such transfers may be in the form of Schedule D., or to the like effect.

(3) The right to payment of the moneys secured by any of such debentures and to sue in respect thereof shall vest in the holder thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

Issue of
duplicate
securities.

¹ [110A. (1) When a debenture issued under this Act or any previous Act relating to the municipal government of the city is alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom but for the loss or destruction it would be payable, he may, on application to the Municipal Commissioner, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

(a) the payment of interest in respect of the security said to be lost or destroyed, pending the issue of a duplicate debenture, and

(b) the issue of a duplicate debenture payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of such notification of the loss or destruction of the debenture as may be prescribed by the corporation, and after the expiration of such period as may be prescribed by the corporation, nor until the applicant has given such indemnity as may be required by the corporation against the claims of all persons deriving title under the debenture lost or destroyed.

(3) When a duplicate debenture has been issued the corporation shall, after the lapse of six years from the date of publication of the notification referred to in sub-section (2), be discharged from all liability in respect of the original debenture, of which a duplicate debenture has been issued.]

Right of
survivors
of joint
payees of
securities.

¹ [110B. (1) Notwithstanding anything in section 45 of the ² Indian IX of 1872. Contract Act, 1872, when any debenture issued under this Act or any previous Act relating to the municipal government of the city is payable to two or more persons jointly and either or any of them dies, the debenture shall be payable to the survivor or survivors of those persons.

¹ Secs. 110A to 110C were inserted by s. 2 of the Bombay Repealing and Amending Act, 1910 (Bom. Act 1 of 1910), Vol. V of this Code.

² General Acts, Vol. II.